



Court Looks to Committees for Ideas

“The Judicial Branch should encourage participatory management at all staff levels.”

“The Judicial Branch should establish a mechanism for periodic review of trial court, appellate court, and administrative practices, procedures, rules, programs, and organizational structures to identify changes that improve quality of service, control costs, streamline procedures, and promotes success.”

“The Judicial Branch should expand training and educational opportunities for judges and court employees.”

“The Judicial Branch should have the staffing and resources needed to assure high-quality decision-making and administration of justice.”

The previous statements are some of the many recommendations of the Iowa Supreme Court Commission on Planning for the 21st Century, which in 1996 outlined a vision for the future of the Judicial Branch of Iowa. Today, the Iowa Supreme Court is following through on these recommendations with the help of a number of new committees and a forum for trial judges.

New Committees

The Court has directed four different committees to conduct in-depth studies of the operations of the various components of the trial court system, including district court administration, juvenile court services, and clerk of court offices. The purpose of the effort is to eliminate disparities between the districts in all aspects of operation, promote uniformity, develop or update staffing formulas, identify best practices for statewide adoption,

and create opportunities to improve services.

There will be two studies involving clerk of court offices: one to update the clerks' staffing formula and another to identify management strategies aimed at improving the operation of the clerks' offices within the current statutory framework and funding levels. Another committee will study similar issues for our juvenile court component. There will also be a committee to examine district court administration. Judges and court staff will be key players on all committees. (See page 6 for committee rosters.)

Some of the committees have already begun their work. The Clerks' Formula Committee and the Clerks' Management Committee met recently. The Juvenile Court Services Committee plans to meet the first week in September. The District Administra-

tion Committee, however, will start early next year so it can consider the recommendations from the trial judges' forum, which will meet this fall.

Trial Judges' Forum

The purpose of the trial judges' forum is to provide judges with an opportunity to inform the Supreme Court of the resources they need to perform their duties in a manner that best serves the public. Judges in each district will select their representatives to the forum. All levels of the bench—district court, district associate, and associate judges—will be represented. The number of representatives from each district is proportionate to the number of judges in each district to the total number of judges.

Court Committees

Continued from page 1

"High-quality decision-making is the primary function of the court system, and judges are the key component in this process," said Chief Justice Lavorato. "The Court recognizes that it must do all it can to provide judges with sufficient resources to do their jobs well, and the forum will help us do this."

Education Committee

Although not a new committee, the Advisory Committee on Education is an important part of the Court's efforts to implement the future's report. Last year, the Supreme Court established the committee, which is composed of representatives from all major court employee groups. Justice Michael Streit chairs the committee.

The Education Committee is examining education policies and standards, curriculum and faculty development, and staff, facilities and funding needs. The committee is designing a model orientation-training program for new court staff, most of who have no formal orientation. The committee

also plans to study mentoring programs, interactive teaching, and distance learning technologies. The overall goal of the committee is to develop a five-year plan for education and training of all judicial officers and court employees.

"The Court continues to believe that investment in training and education is a cost-effective and vital component of personnel performance and we are making plans to revitalize our education program," said Chief Justice Lavorato.

From Vision to Reality

The goal of the Commission on Planning for the 21st Century was to design the ideal future for Iowa's courts for the year 2020. The goal of the new committees and the trial judges' forum will be to develop strategies to turn certain aspects of the vision into reality, and to do so during a budget crisis.

"Although the budget problems we're facing are going to be with us for the

foreseeable future, we can still make improvements by streamlining and reallocating existing resources to our top priorities," said Chief Justice Lavorato. "I'm confident that the new committees and the trial judges' forum will find solutions for getting this done."

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Twenty Years on Court



Justice James Carter, shown with his wife, Jeanne, was honored for his twenty years of service with the Iowa Supreme Court. He has been a member of the court since 1982.

Court Announces Study of Judicial District Structure

The Iowa Supreme Court has established a committee to recommend a plan for reducing the number of judicial districts from 8 to 6 or fewer, and realigning the judicial election districts. By reducing and realigning the districts, the Court hopes to ultimately achieve two goals: downsize the administrative structure of the trial courts and equalize judicial workloads.

The 24-member advisory committee is composed of representatives of key court constituencies including county officials, lawyers, judges, court employees, legislators, state agencies, and others. The committee co-chairs are Des Moines business executive David Oman, and Judge David Remley, Anamosa, Chief Judge of the Sixth Judicial District.

“The creation of this broadly-based study committee will provide an opportunity for input from the public and others who have a stake in the administration of justice in Iowa,” said Chief Justice Lavorato of the Iowa Supreme Court.

Presently, Iowa’s ninety-nine counties are organized into 8 judicial districts for purposes of administration including the assignment and scheduling of district judges. The selection of trial court judges occurs within 14 judicial election districts encompassing all or part of each judicial district. Judges are allocated between judicial election districts on the basis of a statutory formula that includes population, filings, and other factors.

The configuration and number of judicial districts and election districts is set by the legislature. The legislature has not reorganized the districts since 1972 when it reduced the number of districts from 18 to 8.

The committee will submit a report to the Court by December 30, 2002, in order for the Court to consider whether or not to recommend the plan to the 2003 General Assembly.

The members of the committee are:

David Oman, Des Moines, co-chair
Chief Judge David Remley, Anamosa, co-chair
District Court Judge Annette Scieszinski, Albia
District Court Judge J.C. Irvin, Shenandoah
District Court Judge James Beeghly, West Union
Associate Juvenile Judge Brian Michaelson, Sioux City
Magistrate Virginia Cobb, Dallas Center
District Court Administrator Tom Betts, Davenport
Buchanan County Clerk of District Court Vicki Brasch, Independence
Carolee Philpott, Judicial Clerk III, Franklin County,
Court Reporter Tom Kierski, Ft. Dodge
Attorney Dave Wiggins, West Des Moines
Attorney John French, Council Bluffs
Attorney Robert V. P. Waterman, Jr., Davenport
Johnson County Attorney J. Patrick White, Iowa City
Attorney Susan Flander, Mason City
Attorney Cynthia Moser, Sioux City
Curt Campbell, Community Based Corrections, Fairfield
Jim Krogman, Department of Human Services, Des Moines
Pottawattamie County Board of Supervisor Naomi Christiansen, Glenwood
Plymouth County Sheriff Mike Van Otterloo, LeMars
Senator Gene Fraise, Ft. Madison
Representative Libby Jacobs, West Des Moines
Dean Peter Goplerud, Drake Law School, Des Moines

Clerk's Monthly Report of Total Fees Collected Comparsion Summary

TYPE OF FEES	RECEIPTS FY00	RECEIPTS FY01	RECEIPTS FY02
FEES TO STATE			
Filing Fees - Civil (\$80)	\$ 3,498,863	\$ 3,522,996	\$ 3,754,804
Filing Fees - Small Claims (\$30)	\$ 2,422,644	\$ 2,481,157	\$ 2,561,536
Filing Fees - Indictable Criminal (\$30)	\$ 1,469,202	\$ 1,182,951	\$ 1,014,496
Filing Fees - Parking Violations (\$9)	\$ 109,205	\$ 99,438	\$ 75,827
Court Costs - Scheduled Violations (\$15)	\$ 8,702,343	\$ 7,905,846	\$ 8,349,635
Court Costs-SV, Ct App, Nonsched., Other Simple (\$25)	\$ 2,374,329	\$ 2,122,944	\$ 2,008,307
Miscellaneous Court Fees	\$ 6,643,192	\$ 6,567,871	\$ 6,198,472
Entry Final Decree of Marriage Dissolution (\$30)	\$ 280,398	\$ 272,234	\$ 270,825
Vitals, Copy of Birth\Death\Marriage Certificates (\$10)	\$ 1,777	\$ 1,007	\$ 405
Interest Earned on Invested Funds (100%) & Late Payments	\$ 670,332	\$ 748,119	\$ 416,355
Fines and Forfeited Bail and Infractions	\$ 32,307,016	\$ 29,816,538	\$ 33,164,073
City Fines and Forfeited Bail (10%)	\$ 622,100	\$ 575,429	\$ 667,452
Fine-Driving no proof of insurance	\$ 759,351	\$ 1,525,671	\$ 1,948,068
Late Settlements - Civil Jury Trial (\$500)	\$ 43,506	\$ 33,581	\$ 28,839
Surcharge (95%)	\$ 10,774,328	\$ 10,395,004	\$ 11,265,186
Indigent Defense Reimbursement to State	\$ 3,605,692	\$ 3,508,743	\$ 3,707,272
Collected Delinquent Amts to J&W Revolving	\$ 1,704,380	\$ 2,345,931	\$ 2,345,562
Prepayment of Indigent Defense Fees	\$ 8,705	\$ 6,244	\$ 6,231
Civil Penalty Sex Offender	\$ 26,962	\$ 31,751	\$ 35,022
Impoundment Fee	\$ 371	\$ -	\$ 10
\$5 Drug Abuse	\$ 77,104	\$ 72,986	\$ 91,064
DOT Commerical Vehicle	\$ 1,909,360	\$ 2,369,504	\$ 2,491,963
DOT \$.50 Copy Fee	\$ 574	\$ 374	\$ 820
SUBTOTAL	\$ 78,011,735	\$ 75,586,322	\$ 80,402,222
Less Deposits and Collections	\$ 1,363,983	\$ 1,202,520	\$ 1,212,436
Subtotal Check to State Treasurer	\$ 76,647,752	\$ 74,383,802	\$ 79,189,786
FEES TO COUNTY OR CITY			
Sheriff's Fees	\$ 888,500	\$ 883,085	\$ 850,336
Indigent Defense Reimbursed to County	\$ 54,227	\$ 45,740	\$ 47,514
Surcharge - County - 5% Less City	\$ 478,758	\$ 464,093	\$ 495,356
Fines & Int., Court Costs, Ind. Def. Reimb (35%)	\$ 628,404	\$ 651,052	\$ 624,528
City Fines and Forfeited Bail (90% Fines)	\$ 5,594,119	\$ 5,178,668	\$ 6,003,988
Surcharge (5%)	\$ 88,598	\$ 82,375	\$ 96,441
City Infractions - Penalties/Forfeitures (90%)	\$ 123,076	\$ 156,937	\$ 135,062
City Miscellaneous	\$ 142,228	\$ 205,928	\$ 194,243
County Infractions - Penalties/Forfeitures	\$ 393,769	\$ 771,614	\$ 985,839
SUBTOTAL	\$ 8,391,680	\$ 8,439,493	\$ 9,433,307
GRAND TOTAL SECTION A+B	\$ 85,039,432	\$ 82,823,295	\$ 88,623,092

Court Generated Revenue Up 6% in FY 2002



Unlike the state's bleak revenue picture, money collected by the court system for fines and fees increased 6% last fiscal year. The clerks of court deposited a total of \$79.2 million in the state's coffers in fiscal year 2002 compared to \$74.4 million in fiscal year 2001. In addition, money deposited in city and county funds increased nearly \$1 million in the same period. This is a far cry from the state's negative 2% revenue collections in fiscal year 2002.

Court generated revenue showed strong gains in several categories: fines, forfeited bail and infractions increased 10% or \$3.4 million; the criminal penalty surcharge rose 8% or nearly \$900,000; and fines for no proof of insurance jumped 22% or \$420,000.

Lois Leary, Polk County Clerk of Court, attributed the gain to "utilizing [the central collections unit] and income tax offset—ICIS has become a better collection tool; better monitoring by the court of payment plans;"

and having online public access to records "may prompt some people to pay their fines."

Last year's increase makes up for the unanticipated 3% decrease in court revenues in fiscal year 2001. Court officials indicate that the drop in fiscal year 2001 may be attributable to problems with the interface between the clerks of court and the state's central collection unit (CCU). These issues were resolved last year, however, and the CCU interface is working well. In fact, CCU collected \$10.5 million last fiscal year compared to \$8.9 million in fiscal year 2001.

The state also collected more court fines and fees through its income tax offset program last fiscal year—\$3 million in fiscal year 2002 compared to \$2.4 million in fiscal year 2001.

Juvenile Court Services Advisory Committee

Co-Chairs

Hon. Alan Allbee, Associate Juvenile Court Judge, District 1

Candice Bennett, Chief Juvenile Court Officer, District 6

Members

Hon. Mary Timko, Associate Juvenile Court Judge, District 3

Hon. John Mullen, District Associate Judge, District 7

Hon. William Owens, Associate Juvenile Court Judge, District 8

Keith Pick, Chief Juvenile Court Officer, District 4

Patricia Hendrickson, Chief Juvenile Court Officer, District 7

Steven Ferguson, Juvenile Court Officer, District 2

Jane Nelson, Juvenile Court Officer, District 1

Alan Blair, Juvenile Court Officer, District 2

Gary Schoorman, Juvenile Court Officer, District 3

Gary Soreide, Juvenile Court Officer, District 5

Mike Rempe, Juvenile Court Officer, District 8

Beth Baldwin, District Court Administrator District 5

Robert Hansen, Osceola County Attorney

Attorney Richard F. Mitvalsky,
Gray, Stefani & Mitvalsky

District Court Clerks' Staffing Formula Advisory Group

Co-Chairs

Hon. Charles Smith, Chief Judge, District 4

Lodema Berkeley, Clerk of District Court, Johnson County

Group Members

Linny Emrich, Clerk of District Court, Delaware County

Nancy Greenlee, Clerk of District Court, Bremer County

Janice Knutson, Clerk of District Court, Humboldt County

Craig Jorgensen, Clerk of District Court, Woodbury County

Randy Osborne, Clerk of District Court, Marion County

Lois Leary, Clerk of District Court, Polk County

Julie Johnson, Clerk of District Court, Washington County

Hon. Richard Gleason, District Assoc. Judge, District 1, Dubuque County

Leesa McNeil, District Court Administrator, Woodbury County

Marilyn Huff, Clerk of District Court, Clinton County

William Snyder, Director of Human Resources, State Court Administration

Jerry Beatty, Director of Judicial Branch Education, State Court Administration

Tom Betts, District Court Administrator, District 7

Carroll Edmondson, District Court Administrator, District 6

District Court Clerks' Office Management Advisory Committee

Co-Chairs

Deb Dice, District Court Administrator, District 8

Vicki Krohn, Clerk of District Court, Shelby County

Members

Hon. Paul R. Huscher, District Court Judge, District 5

Dave Siefken, Clerk of District Court, Winneshiek County

Sue Harson, Clerk of District Court, Wright County

Ruth Kelly, Clerk of District Court, Pottawattamie County

Judy Johnson, Clerk of District Court, Jasper County

Sharon Modracek, Clerk of District Court, Linn County

Marlene Nelson, Clerk of District Court, Scott County

Mary Sexton, Clerk of District Court, Mahaska County

Scott Hand, Acting District Court Administrator, District 2

Julie Jones, Judicial Clerk II, Woodbury County

Jane Hovick, Office of Personnel & Finance, State Court Administration

Jerry Beatty, Director of Judicial Branch Education, State Court Administration

Ken Bosier, Senior System Administrator, ICIS-State Court Administration

Judicial Branch Seeking Nominees for 2002 Awards Program

The Iowa Judicial Branch is accepting nominations for its annual awards program. The program was established to recognize exemplary public service by court personnel and to acknowledge outstanding contributions to the administration of justice by persons outside the court system.

The **Distinguished Service Award** will be given to a court employee who has at least ten years of service in the court system, has exemplified a sustained level of exceptional service to the courts, has demonstrated a strong commitment to public service, and has continuously initiated efforts to improve the administration of justice in Iowa.

The **Meritorious Service Award** will be given to five recipients. One award will be made to a person in each of the following groups: (1) a part-time judicial officer, (2) a clerk of court or employees of a clerk's office, (3) a non-judicial employee of juvenile court services, (4) a court reporter, and (5) an administrative employee at the state or district level. This award will be given to a person who has served at least five years with the court system, has maintained a consistent level of superior service to the public and to the courts, and has significantly improved court services at the local, district or state level.

The **Court Innovation Award** was established to recognize a person or group of persons who has demonstrated leadership in the development and implementation of an innovative program or process that has improved the delivery of court services, public

access to the courts, the administration of justice, and who has worked cooperatively with other courts seeking to implement the program or process.

One of the awards, the **Amicus Curiae Award**, was established to recognize the efforts of persons who do not work for the court system. This award will be given to a person who has made significant contributions to the administration of justice or has contributed substantially to building public support for the Iowa Judicial Branch.

Anyone may nominate a candidate for an award. Nominations must be submitted on the official program forms or in a format that is substantially similar to the forms. **Nominations must be received by October 1.**

A committee of the Judicial Council, chaired by the Sixth District Court Administrator Carroll Edmondson, will screen the nominations and choose finalists for the awards. The Judicial Council will select the award winners.

Copies of the nomination form can be obtained from Cheryl Thraillkill with the State Court Administrator's office. Completed nomination forms must be sent to Cheryl Thraillkill, State Court Administration, State Capitol Building, Des Moines, Iowa 50319, fax number 515-242-0014, e-mail

Cheryl.L.Thraillkill@jb.state.ia.us or telephone 515-281-6268.

IOWA JUDICIAL BRANCH

2001 Award Winners

Distinguished Service Award

Leesa McNeil, Sioux City

Meritorious Service Award

John Monroe, Cedar Rapids
Bert Ann Ray, Nevada
Pat Hendrickson, Davenport
Vicki Krohn, Harlan
Nancy Timmons, Jefferson

Court Innovation Award

Judge Richard Morr

Amicus Curiae Award

Monroe County Board of Supervisors

2000 Award Winners

Distinguished Service Award

Bert Aunan, Des Moines

Meritorious Service Award

Magistrate Richard Hunt
Diane Mueller
Debra Shields
Gary Niles
Janet Harris

Court Innovation Award

Polk County Criminal Justice Information Network (CJIN)

Amicus Curiae Award

Darrell Doss, Davenport

1999 Award Winners

Distinguished Service Award

Ronald Branam, Des Moines

Meritorious Service Award

Magistrate G. Elizabeth Otte, Glenwood
Fred Nydle, Ottumwa
Kevin Skellenger, Des Moines
Craig Jorgensen, Sioux City
Dianne Head, Council Bluffs

Court Innovation Award

Judge Nancy Baumgartner
Judge Michael Newmeister
Judge Robert Sosalla, and
Judge Jane Spande, Linn County

Amicus Curiae Award

John A. McClintock, Des Moines

Court Technology Progress Report

Tough budget times have slowed, but not stopped, innovations and improvements through the use of technology. Despite budget cuts, layoffs, and unfilled vacancies, some important goals were achieved this year and other goals are within reach. Still, the technology office has its share of challenges (a few of which can be resolved by everyone's cooperation).

Electronic Public Access

The Judicial Branch's new program for on line access to courts records, which started in February, is a huge hit with the public. The site has 12,000 to 15,000 users a day searching for basic court docket information. The site will likely gain in popularity when the Judicial Branch adds two more features: (1) a service that provides access to more detailed court information for a \$25 monthly fee, and (2) e-pay, a feature that will enable people to pay traffic tickets and child support on line. Court officials hope that the on line service will ease the burden off clerk of court offices by enabling the public to check records and make payments electronically rather than using the mail or going to the clerk's office.

Deferred Judgment Docket

The on line access program includes an added bonus for judges and county attorneys. The system will soon provide secured Internet access for authorized users to the state's deferred judgment docket. This feature will be available when the subscriber service begins, which should be any day now.

Internet Issues

Earlier this summer the Judicial Branch experienced a number of network problems caused by problems with the ICN (Iowa Communications Network). The ICN had some equipment failures while upgrading its firewall, but have been resolved.

Court personnel's use of the Internet is causing some problems for the Judicial

Branch network. Some employees are using "push technology" such as Weather Bug, Wallpaper, Point Cast, and CNN news. There's also a significant amount of Internet traffic to non-business sites. Both activities eat up large amounts of network bandwidth and slow down the network. Court personnel can take pressure off the network and reduce operating expenses by stopping these activities.

Network Issues

This spring the technology office installed a T1 line from the ICIS office to the district offices to help speed up processing times.

Criminal History

The Judicial Branch and the Department of Public Safety have completed the state-wide implementation of the CCH (computerized case history) interface. CCH is an electronic process that transfers criminal disposition data from the clerks of district court databases to the department. The program transfers disposition data from four major case types (aggravated, felony, OWI, and serious misdemeanors) overnight. As a result of the interface, the department is receiving more dispositions than ever before and the clerks are freed from completing and sending "green sheets."

Electronic Legal Research

The Judicial Branch has contracts with Lexis for electronic legal research services. About 120 Judicial Branch officials use Lexis each month. The three-year contract is nearing its end and the Judicial Branch has released a request for proposals (RFP) for a new contract.

Windows XP

The Judicial Branch Technology office is testing the new Microsoft operating system, Windows XP, for its effect on the network and infrastructure. The office does not plan to upgrade existing PCs to XP. However, new PCs will be shipped with XP.

Office XP

The technology office will be upgrading some PCs to Office XP, the new Microsoft office product. The technology office is taking an inventory of memory and processor speed to determine which PCs can operate with Office XP. PCs that cannot be upgraded will continue to use Office 2000 until the PCs are replaced. The technology office will offer on line training (CBTs) again this year.

Oracle

Oracle, which is used for the ICIS operating platform, has released a new version — Oracle 8i. The technology office is upgrading the database with this new product. The upgrade is being tested on the following system applications: ICIS case management, appellate case processing, CJIN, jury management, and deferred judgment docket.

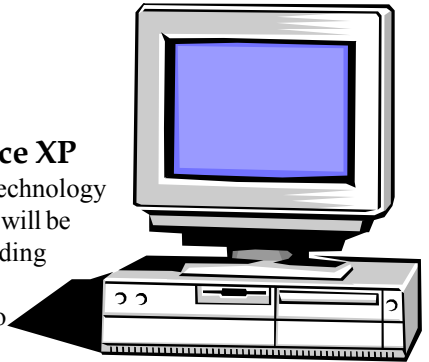
Jury Management

The information provided by the DOT in February for the jury source list was not in the agreed upon format. It lacked social security numbers and included the names of minors. This has caused extra work for the clerks of court who must clean up the records. The technology office looked for a technical solution, but found none. Consequently, clerks must continue to scrutinize the list.

The technology office is testing a new version of the ACS jury management program with Oracle 8i. The office is planning to deliver the product in September.

ICIS II

For years, the Judicial Branch has been planning for ICIS II. Now the program is on hold because of the budget cuts.



New or Amended Court Rules: January – July 2002

Civil Procedure 1.454.

The Court eliminated the rule providing for separate adjudication of law points.

Appellate Procedure 6.13.

These amendments concern the service of briefs on defendants in criminal cases or post-conviction applicants, and briefs filed by pro se defendants in criminal cases and post-conviction applicants.

Appellate Procedure 6.19.

Requires the clerk of the Supreme Court to notify the Ethics Board, and the State Public Defender, when applicable, of dismissals for failure to prosecute.

Appellate Procedure 6.3.

This amendment increases the amount in controversy for appeals of small claims actions from \$5000 to \$6000.

Appellate Procedure 6.22(3).

This amendment adds page limits to a resistance to a motion and a reply to the resistance.

Small Claims Form 3.10.

This amendment increases the form for original notice in an action for replevin.

Court Rule 37.4.

This change adds members of the Iowa Coalition Against Sexual Assault to the groups with which victim counselors must be affiliated to assist victims with certain court proceedings under chapter 236.

Court Rule 22.11.

This amendment affects the deadline for a newly appointed judge to qualify for office and for terminating his or her law practice when applicable.

Code of Professional Responsibility DR 2-105(A)(2).

This was a slight amendment to the fields of practice list.

Civil Procedure 1.511.

This was a slight amendment to the rule concerning the effect of admission.

Forms: Domestic Abuse, Stalking, Harassment, and Sexual Abuse.

This amendment conforms certain forms to recent legislative changes

Appellate Procedure 6.751, Form 4.

This amendment modified the certification for ordering trial court records contained in the petition for appeal from termination of parental rights.

Appellate Procedure 6.22 and 6.23.

These amendments concern rules regarding motions.

Appellate Procedure 6.14(8).

This was a slight amendment to the rule concerning lengths of briefs.

Juvenile Procedure 8.2 and 8.19.

This amendment concerns the prosecution of multiple delinquent acts as separate counts.

Juvenile Procedure 8.18.

This amendment modifies the rule concerning the retention period for child protective reports.

Juvenile Procedure 8.19.

This amendment expanded Rule 8.19 by adding specific findings that must be made for the removal of sexual offenders and physical abusers from a child's residence.

Court Rule 31.12.

This amendment concerns amendments to applications to the bar.

Appellate Procedure 6.14.

This amendment adds a new requirement to the information that must be included in an appellate brief. A brief must now contain a "routing statement," which indicates whether a case should be retained by the supreme court or transferred to the court of appeals.

Court Rule 34.3.

This amendment involves complaints against prosecuting attorneys.

Court Rule 41.

This amendment involves a number of changes to the CLE rules. Among other things, the changes recognize computer-based legal training and allow up to 6 hours of computer-based training to count toward the 15-hour annual requirement.

Criminal Procedure 2.3(1).

This amendment authorizes computer selection processes for randomly drawing names for grand jurors.

Appellate Procedure 6.14.

This amendment sets out the proper form for citing Iowa Court Rules.

New Faces

Supreme Court: **Amy Thomas**, *Des Moines*, **Angela Thornton-Millard**, *Des Moines*, Law Clerks.

Court of Appeals: **Mark King**, *Des Moines*; **Melinda Myers**, *Des Moines*, **Jennifer Mills**, *Des Moines*, **Kami Hemke**, *Des Moines*, Law Clerks.

District 1: **Amanda Bair**, *Waterloo*, Court Reporter.

District 3: **Marchia Lundquist**, *Primghar*, **Sally Fastert**, *Rock Rapids*, Judicial Clerks.

District 4: **Jennifer Mullet**, *Council Bluffs*, Law Clerk; **Patricia Whisney**, *Logan*, Judicial Clerk.

District 5: **Mackenzie Flynn**, *Adel*, **James Rogers**, *Des Moines*, **Edward Rose**, *Des Moines*, **Jamie Trueblood**, *Des Moines*, Law Clerks; **John Lloyd**, *Osceola*, District Court Judge.

District 6: **Karen Frankfurt**, *Cedar Rapids*, **Sherri Fleming**, *Cedar Rapids*,

Ellen Wilmoth, *Iowa City*, **Kelly Ebel**, *Iowa City*, **Lori Kelley**, *Cedar Rapids*, Judicial Clerks.

District 7: **Carolyn Grant**, *Maquoketa*, Judicial Clerk; **Jennifer Clinton**, *Davenport*, **Kristin Baczynski**, *Davenport*, Law Clerks.

District 8: **Jaime Preciado**, *Ottumwa*, Law Clerk; **Ellyn Hildebrand**, *Washington*, Judicial Clerk.

Milestones: Service Anniversaries

25 Years

William Long, Magistrate, *Wright County*.

Steve Dittrich, Screening Attorney, *Supreme Court, Des Moines*.

Donald Winkler, Magistrate, *Pocahontas County*.

James Mefferd, Magistrate, *Lucas County*.

Lloyd Smith, Juvenile Court Officer, *Linn County*.

James McGrath, Magistrate, *Van Buren County*.

Edward Nahas, Judicial Court Officer, *Polk County*.

David Boyd, Deputy State Court Administrator, *Des Moines*.

Janet Vance, Court Reporter, *Lee County*.

30 Years

Cindy Cook, Court Reporter, *Cherokee County*.

Thomas Horvath, Chief Juvenile Court Officer, *Cerro Gordo County*.

Diane Mueller, Court Attendant, *Scott County*.

Sandra Fitkin, Judicial Clerk, *Black Hawk County*.

Justice Thomas Meets With Court of Appeals



U.S. Supreme Court Justice Clarence Thomas returned to Drake Law School for a weeklong residency discussing constitutional issues and functions of the court. Justice Thomas hosted a reception for state judges including Iowa Court of Appeals judges (left to right) Larry Eisenhauer, Van Zimmer, Robert Mahan, Gayle Vogel, Justice Thomas, Chief Judge Rosemary Sackett, Anu Vaitheswaran, and Daryl Hecht.



Aunan Retires

Bert Aunan, Chief Juvenile Court Officer for District 5, retired July 3 after nearly thirty-six years of service to the juvenile justice system. Bert received a plaque for a special recognition award at a reception attended by friends, family and co-workers.

Exploring Racial Profiling And Pretext Traffic Stops At The National Judicial College

by Karl Grube, County Court Judge
St. Petersburg, Florida

Is racial profiling a legal defense in traffic offense cases? Are minor traffic offenses used as a "pretext" to stop drivers who fit a particular profile based on race or ethnicity? These were among the most controversial issues addressed recently at the National Judicial College's new course entitled "Traffic Court Issues in the 21st Century."

Judge David Krashna of the Alameda County, California Superior Court moderated a panel that addressed these issues. Panelists included Professor David A. Harris a leading authority on racial profiling. Professor Harris is the author of the recently released book "Profiles In Injustice: Why Racial Profiling Cannot Work." Other panelists included Oakland, California Police Captain Ronald Davis, criminal defense attorney Elena Cordes and education specialist Michael Roosevelt.

Participants reviewed caselaw and materials compiled by Judge Krashna including the U.S. Supreme Court decisions of *Delaware v. Prouse* and *Whren v. U.S.* In *Prouse*, the Supreme Court acknowledged that, "The Fourth and Fourteenth Amendments were implicated in this case because stopping an automobile and detaining its occupants constitutes a seizure within the meaning of those amendments even through the purpose of the stop is limited and the detention quite brief." *Prouse*, 99 S.Ct. 1391, 1396, 440 U.S. 648, 653, 59 L. Ed. 2d 660 (1979). The Fourteenth Amendment was again mentioned in the *Whren v. U.S.* decision. In that case the Supreme Court stated that, "...the constitutional basis for objecting to intentionally discriminatory application of laws is the Equal Protection Clause, not the Fourth Amendment. Subjective intentions play no role in ordinary probable-cause Fourth Amendment analysis." *Whren*, 116 S. Ct. 1769, 1774, 517 U.S. 806, 813 135 L. Ed. 2d 89. Thus, the *Whren* Court went on to rule unanimously that the Fourteenth Amendment Equal Protection Clause was not implicated in cases in which a violation of the Fourth Amendment was being utilized for suppression purposes.

Of significance in the *Whren* decision was the Court's emphasis that the underlying motive of an officer was not of consequence where the stop was based on "probable cause" that an offense has been committed. The Court acknowledged that if probable cause were not the basis for the stop, then the result of balancing the government's interest in traffic safety versus the individual's right to freedom of movement might yield a different conclusion. One such case in which balancing did yield a different conclusion was

City of Indianapolis v. Edmond 531 U.S. 32, 121 S.Ct. 447, 148 L.Ed.2d 33 (2000). In *Edmond* the court held that when the Fourth Amendment validity of an intrusion without reasonable suspicion is considered, the "programmatic purposes" of law enforcement's "general scheme" may be relevant. The court pointed out that a program driven by an impermissible purpose may be proscribed. With that reasoning, the majority concluded that a program of suspicionless stops of motorists at roadblocks could not be used primarily to detect evidence of ordinary criminal wrongdoing such as drug possession.

The Supreme Court has also long recognized that its decisions do not foreclose the right of individual states to impose higher standards on searches and seizures than are minimally required by the Fourth Amendment. See *Cooper v. State of California* 386 U.S. 58, 62; 87 Sup. Ct. 788; 17 L. Ed. 2d 730 (1967). Examples of states whose appellate courts have interpreted the existence of higher privacy standards include Washington and New York. The Washington State Supreme Court observed that the State's Constitution recognized an individual's right to privacy with no express limitations. See *State v. Ladson*, 979 P. 2d 833 (1999). In *Ladson*, the Washington Supreme Court held

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Exploring Racial Profiling And Pretext Traffic Stops

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that their State's Constitution forbade the use of a pretext as justification for a warrantless stop and stated that the trial court should look to the totality of the circumstances including the "subjective intent" of the officer as well as the reasonableness of the officer's behavior.

The Monroe County Court in New York State adopted a similar approach employing a "primary motivation test". See *People v. Reynolds* 185 Misc.2d 674, 713 N.Y.S. 2d 813, N.Y.Co.Ct. (2000). The *Reynolds* court, sitting in its appellate capacity, stated when New York courts have been called upon to consider the validity of certain traffic stops, they have adhered to the announced principle that "...police stops of automobiles in this State are legal only pursuant to routine, nonpretextual traffic checks to enforce traffic regulations or when there exists at least a reasonable suspicion that the driver or occupants of the vehicle have committed, are committing, or are about to commit a crime". *Reynolds supra*. 185 Misc.2d at page 680.

Courts that have adopted the subjective intent and motivating factor tests remain in the distinct minority and efforts to address racial profiling will probably require legislatively generated remedies as opposed to those that emanate from our courts. In this regard, as of March 2001, 16 of 49 state law enforcement agencies have required traffic patrol officers to record motorists' race and ethnicity for each traffic stop. These 16 agencies represent an increase of 7 since 1999. Five states (California, Connecticut, Kentucky, Oklahoma, and Rhode

Island) have already acted affirmatively in prohibiting racial profiling in traffic stops. These states have generally defined racial profiling as stopping a person based solely on race or ethnicity rather than upon reasonable suspicion arising from the person's behavior.

Does the lack of statutes prohibiting profiling and pretext stops mean that those who preside in our nation's criminal and traffic courts should disregard these issues? One panelist suggested that evidence of racial profiling in effectuating traffic stops should be noted for the record and that such evidence could serve to diminish the credibility of those who employ such practices as an investigative or enforcement tool. In the end, however, the harm of pretext stops and racial profiling will most likely have to wait to be redressed in courts of civil jurisdiction through the application of decisions such as *Yick Wo vs. Hopkins*, 118 U.S. 356, 374; 6 S.Ct. 1064, 30 L.Ed. 220, 6 S.Ct. 1064 (1886) in which the Supreme Court so eloquently wrote:

"Though the law itself be fair on its face, and impartial in appearance, yet, if it is applied and administered by public authority with an evil eye and an unequal hand, so as practically to make unjust and illegal discriminations between persons in similar circumstances, material to their rights, the denial of equal justice is still within the prohibition of the constitution."

The National Judicial College will be presenting several new cutting-edge traffic safety courses in 2003. These courses are being piloted at the College in 2002.

Among the new courses being offered is a "DUI Primer" course for new traffic court judges. *Traffic Court Issues In the 21st Century* with its components on racial profiling and pretext stops will also be repeated in 2003. For more information or to register for these courses, please contact Program Attorney Mary Ann Aguirre at 1 (800) 25-JUDGE (Ext. 210).

Judge Grube has served as a county judge in St. Petersburg, Florida, since 1976. Prior to assuming the bench, he served as an assistant public defender followed by private practice. He has authored several law review articles related to impaired driving, motor vehicles and constitutional criminal procedure. In 1996 he was appointed to the National Highway Traffic Safety Administration's Judicial Training Implementation Board. In that capacity he has trained over 200 judges from 42 states to develop effective teaching skills to improve the adjudication of impaired driving cases in their jurisdictions.

Judges Elect Officers

Iowa judges have elected three to leadership positions in the Iowa Judges Association: President John A. Nahra of Davenport; Vice-President Stephen C. Clarke of Waterloo/Cedar Falls; and Secretary-Treasurer Annette J. Scieszinski of Albia. They will lead the statewide judicial group in its mission to unite judges in the interest of a sound administration of justice; recommend improvements of procedure and policy; and work, cooperatively, with all branches of government for the betterment of court functions and justice for all of Iowa's citizens.



Chief Judge John A. Nahra, District 7

member of the National Council of Juvenile and Family Court Judges, he was honored in 1992 with the Friend to Children Award, and in 1997 he earned the Iowa Judges Association Award of Merit.

Looking ahead, Judge Nahra states, "this year the Iowa Judges Association will reinforce its commitment to facilitate communication between the trial court, appellate courts, members of the Iowa Bar Association, the

Iowa legislators, and the public with the goal of understanding the challenges facing the Iowa judiciary. This understanding is central to the courts' mission of pursuing justice."

Judge Nahra, the Chief Judge for the 7th Judicial District, has been a district court judge for 16 years, and previously served as an associate juvenile judge for 1.5 years. He has been active in the Association's Committees on Juvenile Law, Criminal Law, Judicial Administration and Technology, Legislative Policy, and Pension. Judge Nahra also heads the Iowa Supreme Court's Public Education and Media Relations Advisory Committee. A longtime



District Court Judge Stephen C. Clarke, District 1

the district court in 1997. He co-chairs the Iowa Supreme Court's Select Committee to Review State Court Practices in Child Welfare Matters. Last year he was nominated

by Senator Charles Grassley and designated an "Angel of Adoption" by the Congressional Coalition on Adoption, as recognition for his work on the Select Committee. He is a member of the National Council of Juvenile and Family Court Judges and has recently presented statewide training on juvenile court practice and procedure so that all judges may assist in serving the growing demands of juvenile court.

Judge Scieszinski serves in Judicial District 8-A. She has been on the district bench six years, following 15 years in private law practice and including two terms as Monroe County



District Court Judge Annette J. Scieszinski, District 8

Attorney. She co-chairs the Judges Association's Courts and Community Committee, and in 1999 she represented Iowa's judges at the National

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Judges Elect Officers

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Conference on Trust and Confidence in the Courts. Judge Scieszinski is also actively involved with various Iowa State Bar Association work groups, including the Bench-Bar Committee which she has co-chaired through three statewide conferences and the Professionalism Committee where she leads the Mentor Program.

The Judges Association is managed by a board that consists of a director, elected from each of the eight judicial districts in the state, the body of appellate judges, retired judges serving on senior judge status, and the immediate past President. For 2002-2003, the board of directors includes:

Iowa Judges Association Board of Directors

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District 7: David H. Sivright, Jr., district court judge from Clinton

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Past President: Donna Paulsen, district court judge from Des Moines

The *Iowa Bench Press* is published bimonthly by the State Court Administrator's Office to keep court personnel informed about court policy, projects, programs, and activities. Articles express the views of the authors or the editor and not necessarily those of the Iowa Judicial Branch.

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